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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,739	11/30/2001	Claude A. Marbler	ATM-2301	4484

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EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,739

Applicant(s)

MARBLER ET AL.

Examiner

Jane J Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29,31,33-35 and 37-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29,31,33-35,37-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 12-13,15,18,19,23-29,31,33-35,37,39, 41-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Olivieri et al. (98/29312).

Olivieri et al. discloses a process comprising manufacturing a multilayer packaging film for a packaging (page 1 lines 1-2) having at least one line of perforations (figure 8a number 433) that are provided in a plastic surface layer of the packaging (page 1 line 5, figure 8 number 433) and serve as an aid for alignment of a tear line propagating in the packaging film upon tearing open the packaging (page 15 lines 11-13), including cutting the perforations into a surface layer which is in the form of a film (page 13 lines 34-39), and joining the precut film to the other layers to make up a composite film (page 14 lines 18-19). Olivieri et al. discloses that the film is joined to the other layers by means of an adhesive layer to make up a composite film (page 2 lines 11-13), and providing a notch for initiating tearing in the region of the perforations the packaging being easy to open by the tear line (figure 9a number 431). Olivieri et al. discloses that the perforations are cut after coating the film with adhesive (page 12 lines 7-10). Olivieri et al. discloses that the two lines of perforations are cut parallel or substantially parallel to each other (figure 9a numbers 433 and 432) and a distance

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apart as guidelines on both sides of a tear which propagates in the film on tearing open the packaging (figure 9a numbers 433 and 432) and a notch is situated between the two lines of perforations (figure 9a number 431). Olivieri et al. discloses that the packaging film is employed for the production of pouch forms of packaging (page 1 lines 17-18). Olivieri et al. discloses that the perforations are situated on the inner side of the packaging (figure 8a numbers 433 and 432). Olivieri et al. discloses a notch for initiating tearing is provided in the region of the perforations (figure 9a number 431). Olivieri et al. discloses a packaging comprising two opposed wall members comprising a multilayer film (page 4 lines 10-11) each wall member having at least one line of perforations that are provided in a plastic surface layer of the packaging and serve as an aid for alignment of tear line propagating in the packaging film upon tearing open the packaging (page 4 lines 15-20), a notch for initiating tearing in region of the perforations, the packaging being easy to open by means of the tear line (figure 9a numbers 431,432,433).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 14,16,17,38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olivieri et al. in view of Heilmann et al. (5000321).

Olivieri et al. discloses the process comprising manufacturing a multilayer packaging film described above. Olivieri et al. fail to disclose that the perforations are cut before coating the film with adhesive. Heilmann et al. teaches that the perforations are cut before coating the film with adhesive (col. 4 lines 47-49, col. 5 lines 1-8) for the purpose to guarantee a guided opening (col. 1 lines 40-41).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Olivieri et al. with the process of having the perforations cut before coating the film with adhesive in order to guarantee a guided opening (col. 1 lines 40-41).

3. Claims 20-22,40 rejected under 35 U.S.C. 103(a) as being unpatentable over Olivieri et al. in view of Schlaeppi et al. (0596747).

Olivieri et al. discloses the process comprising manufacturing a multilayer packaging film described above. Olivieri et al. fail to disclose that the film is joined to the other layers by means of extrusion to make up a composite film. Schlaeppi et al. teaches that the film is joined to the other layers by means of extrusion to make up a composite film (col. 4 lines 20-21) for the purpose of securing the inner and outer layers together (col. 4 lines 19-20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Olivieri et al. with the film that is joined to the other layers by means of extrusion to make up a composite film in order to secure the inner and outer layers together (col. 4 lines 19-20) as taught by Schlaeppi et al.

Response to Arguments

Applicant's arguments with respect to claims 12-29,31,33-35,37-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
June 9, 2003



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

6/12/03